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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 JUSTIN E. LEWIS,

9 Plaintiff,

10 v.

11 RYAN PUGH,

12 Defendants.

CASE NO. C17-5227 RJB-TLF

ORDER DENYING MOTION FOR  
COUNSEL

13 Before the Court is Plaintiff Justin Lewis's motion for appointment of counsel. Dkt. 14.  
14 Mr. Lewis states that he requires assistance of counsel because he is indigent and the case will  
15 require discovery of surveillance documents and depositions of a number of witnesses. *Id.*

16 **DISCUSSION**

17 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.  
18 Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party  
19 proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn*  
20 *v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236  
21 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional  
22 circumstances requires an evaluation of both the likelihood of success on the merits and the  
23 ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues  
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1 involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be  
2 viewed together before reaching a decision on request of counsel under Section 1915(d). *Id.*

3 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* but has not  
4 demonstrated that the issues involved in this case are complex. Plaintiff's incarceration and  
5 limited legal training are not exceptional factors constituting exceptional circumstances that  
6 warrant the appointment of counsel. Rather, they are the type of difficulties encountered by  
7 many pro se litigants. Plaintiff has also not shown a likelihood of success on the merits but  
8 merely restates the allegations of his complaint. *See, e.g., Wilborn*, 789 F.2d at 1331.

9 Accordingly, it is **ORDERED**:

10 (1) Plaintiff's motion for the appointment of counsel (Dkt. 14) is **DENIED**.

11 (2) The Clerk of Court is directed to send a copy of this Order to plaintiff and to  
12 counsel for defendants.

13 Dated this 5th day of July, 2017.

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15 Theresa L. Fricke  
16 United States Magistrate Judge  
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